

Massachusetts Electric

A National Grid Company



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Counsel

June 22, 2001

By Hand

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
2nd Floor
Boston, MA 02110

Re: Initial Comments of Massachusetts Electric Company and Nantucket Electric Company on the Department's Proposed Changes to 220 CAR §§ 29.00 et seq.; D.T.E. 01-21

Dear Secretary Cottrell:

On behalf of Massachusetts Electric Company and Nantucket Electric Company (collectively "Mass. Electric" or "Company"), I am providing comments on the Department's proposed changes to billing procedures for calculating a residential rental property owner's responsibility for non-minimal use sanitary code violations, as set forth in 220 CAR §§ 29.00 et seq. Thank you for the opportunity to provide these comments.

In short, the proposed regulation requires the utility, unless calculating the landlord's responsibility on the basis of minimal use pursuant to 220 CAR 29.08(1), to calculate the amount of the landlord's retroactive responsibility for a tenant's electric bill based on the actual usage attributable to the code violation. Mass. Electric opposes this proposal and recommends that the Department keep the present regulation in place.

The proposed regulation will put utilities squarely in the middle of disputes between landlords and tenants. Although the current regulation has the utilities involved in disputes between landlords and tenants, the utilities' role is more limited. If presented with a citation concerning a sanitary code violation, the utility calculates the amount of money for electric service that the landlord owes based on the prescriptive rules currently in 220 CAR §§ 29.00 et seq. and revises the billing. This procedure gives certainty to the utility, landlord, and customer, and does not put the utility in the position of arbiter

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of amounts owed. The proposed regulation would put the utility in that position.

The Department's proposed method for calculating the amount of the violation is inexact, as any method would necessarily be, and thus Mass. Electric anticipates that the utilities' calculations will be subject to scrutiny and disagreement by both the landlord and tenant. Citations are usually written generally, and a utility would be put in the position of fact finder to even start to calculate usage. As I will describe, this position would be problematic.

First of all, Mass. Electric does not have licensed electricians on staff to independently check a residence to determine the extent of the sanitary code violation and understand what appliances and wiring are subject to the violation. We would have to hire third party licensed electricians to perform this work, which would be costly. (In addition, it would be repetitive of the work that the landlord will necessarily perform as he corrects the violation.)

Second of all, to determine usage of the affected appliances requires specific knowledge of and agreement about their actual usage. While industry standards will indicate the average cost to operate an appliance (and thus are helpful when deciding to buy one out of several appliances), they are not helpful when trying to determine actual usage of a specific appliance. How often an appliance is used is a large determinant of the amount of the electric bill that should be attributed to that appliance. For refrigerators, usage depends on brand, size and shape, age, efficiencies, whether it's frost-free or not, and how many people are using it. Landlords and tenants are not likely to agree on the underlying facts which would inform the answer. In addition, in cases involving space heating, the analysis becomes further complicated as it will be necessary for the utility to perform a heat loss study and incorporate actual degree day information to be as accurate as possible. This is a costly and time intensive activity, and requires specialized training.

Currently, Mass. Electric has 116 open sanitary code violation cases. We receive an average of thirty five cases a year. For this number of cases, the proposed regulation would be extremely time and resource consuming. We suspect that many more sanitary code cases would end up at the Department for resolution than is currently the case, as landlords and tenants disagree over actual usage.

Finally, the additional costs necessary for utilities to investigate and process the sanitary code violation could create higher rates for all ratepayers. This seems an unjust cost for ratepayers in general, when the costs of a sanitary code violation should be borne by the property owner.

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We plan to attend the Department's hearing in this docket on June 26, 2001, and would be happy to answer any questions or concerns that the Department has.

Very truly yours,

Amy G. Rabinowitz

cc: George Dean, Office of the Attorney General